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Remarks

Claims 24, 26-33, 41-50 and 52 are pending in this application.

Claims 41-50 and 52 were allowed previously in the office action of 1.29.2003, but later rejected in the office action of 5.17.2005, under 35 U.S.C. § 112, first paragraph, on the ground that the specification does not contain an adequate written description of the term "antigenic determinant" as it pertains to SEQ ID NO:2. While the applicant respectfully dissents, in the interest of expediting the application, the claims have now been amended, deleting reference to "antigenic determinant" in all pending claims.

Currently amended claims 24, 26-33 are drawn to SEQ ID:2, overcoming previous rejections related to use of language referring to antigenic determinants as discussed above. For clarity, the term "polypeptide" has been substituted for "protein" in said claims. The amended claims recite a method to detect antibodies to virulent mycobacterium using SEQ ID:2, and support for the scope of these claims is provided by the example in the specification. Based on this, it is submitted that the amended claims are now in condition for allowance.

Currently amended claims 41-50 and 52 are drawn to SQ ID:2, substituting "polypeptide" for "protein". Absent reference to antigenic determinant/s of SEQ ID:2 or its homologs in these claims, rejection under 35 U.S.C. § 112, first paragraph no longer applies. The amended claim 41 recites using antibodies against SEQ ID:2 to detect mycobacterium, and is well supported by the description in the specification.

Amended claim 50 recites a method to detect antibodies to virulent mycobacterium using mycobacterial homologs of the polypeptide of SEQ ID:2. The scope of the mycobacterial homologs of SEQ ID:2 is further defined by the discriminating hybridization conditions that reveal the presence or absence of such homologs in mycobacterium species as demonstrated in the specification.

On the basis of the amendments and remarks presented herein, Applicants believe that this application is now in condition for immediate allowance. Applicants respectfully request that the Examiner pass this application to issue, and an early notice of such is requested. The Examiner is invited to call the undersigned inventors for discussion of any outstanding issues.

Respectfully submitted,

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